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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92046613
Party	Defendant BAMM! Worldwide, Inc. BAMM! Worldwide, Inc. 2420 West Lunt Avenue Suite 2-00 , IL 60645
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Attachments	Motion to Reopen Time to Answer.pdf (4 pages)(98418 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In The matter of Registration No. 2,805,213 for BAMM!

Date of Issue: January 13, 2004

THE BRONSKILL GROUP, INC.,)	
)	
Petitioner,)	
)	Cancellation No.: 92046613
v.)	
)	
BAMM! WORLDWIDE, INC.,)	
)	
Registrant.)	
)	

Trademark Assistance Center
Madison East, Concourse Level Room C 55
600 Dulany Street
Alexandria, VA 22314

**MOTION TO REOPEN TIME TO FILE AN ANSWER TO
PETITION FOR CANCELLATION PURSUANT TO TPMB §509.01(b)**

NOW COMES the Registrant, **BAMM! WORLDWIDE, INC.**, an Illinois corporation, (hereinafter referred to as “Registrant”), by and through its attorney, MICHELE D. MILLER, and in support for its Motion to Reopen Time to File an Answer to the Petition for Cancellation Pursuant to TPMB §509.01(b), states as follows:

1. On or about December 15, 2006, the attorney for Registrant informed Interlocutory Attorney Robert Coggins of the United States Patent and Trademark Office, that the Petition for Cancellation (hereinafter referred to as “Petition”) as filed and served upon Registrant by THE BRONSKILL GROUP, INC. (hereinafter referred to as “Petitioner”) was missing Page 2, which contained the majority of the allegations of the three-page Petition.

2. On or about December 15, 2006, Robert Coggins stated that he would contact the Petitioner to request that Page 2 of the Petition be properly filed and served upon the Registrant.
3. As of January 28, 2007, the Registrant has not been served with Page 2 of the Petition.
4. On January 28, 2007, attorney for Registrant consulted the TTABVUE to determine the status of the Petition.
5. On January 28, 2007, the TTABVUE revealed the complete Petition, as well as a memo dated December 15, 2006 written by Cindy B. Greenbaum, which stated that a complete copy of the Petition was mailed to Registrant on December 15, 2006 and that an Answer to the Petition was due 40 days from December 15, 2006, whereby setting the deadline to file an Answer at January 24, 2007.
6. The Registrant has never been served with a complete copy of the Petition or a copy of the aforementioned memo by Cindy B. Greenbaum dated December 15, 2006.
7. When the time for taking a required action has expired, a reopening of that time to take that required action is allowed if the movant can show that its failure to timely act was the result of excusable neglect. *TPMB §509.01(b)(1)*.
8. When determining whether excusable neglect exists, one must take into account all relevant circumstances surrounding the party's delay, including (1) the danger of prejudice to the nonmovant, (2) the length of the delay and its potential impact on judicial proceedings, (3) the reason for the delay, including whether it was within the reasonable control of the

movant, and (4) whether the movant acted in good faith. *TPMB §509.01(b)(1)* citing *Pioneer Investment Services Company v. Brunswick Associates Ltd. Partnership*, 507 U.S. 380 (1993) and *Pumpkin Ltd. v. The Seed Corps*, 43 USPQ2d 1582 (TTAB 1997).

9. When considering the first factor, it must be determined whether the movant's delay prejudiced the nonmovant's ability to litigate the case, as mere inconvenience and delay are not sufficient to warrant a finding of prejudice to the nonmovant. *Pumpkin Ltd. v. The Seed Corps*, supra at 1587.
10. The granting of a reopening of the time allotted and setting of a reasonable deadline by which to file an Answer to the Petition will not prejudice the Petitioner as it will not prejudice Petitioner's ability to litigate the case.
11. The most important factor to consider is "the reason for the delay, including whether it was within the reasonable control of the movant." *Pumpkin Ltd. v. The Seed Corps*, supra at n. 7.
12. The reason for the delay was not within the reasonable control of the Registrant, as the Registrant has yet to be served with a complete copy of the Petition and was therefore unaware that a complete copy of the Petition had been filed with the TTAB and that a memo had been issued setting a new deadline by which to file an Answer.
13. Additionally, it is required that the movant set forth the detailed facts with particularity. *Gaylord Entertainment Co. v. Calvin Gilmore Productions Inc.*, 59 USPQ2d 1369 (TTAB 2000).
14. The Registrant has set forth the facts with particularity above and believes that these facts support a finding that the failure of Registrant to file an

Answer to the Petition was the result of excusable neglect.

15. Lastly, the Registrant satisfies the fourth factor, as it has set forth honest reasons for its request to reopen the time allotted to file an answer to the Petition and is not acting to defraud the Petitioner or the TTAB.

WHEREFORE, Registrant, **BAMM! WORLDWIDE, INC.**, an Illinois corporation (heretofore referred to as “Registrant”), respectfully requests that the time to file an Answer to the Petition for Cancellation filed by Petitioner, **THE BRONSKILL GROUP, INC.** (heretofore referred to as “Petitioner”), be reopened and a deadline set to 40 calendar days from the date of this motion, or alternatively, to a date that the Trademark Trial and Appeal Board deems fair, equitable and just.

Respectfully submitted on behalf of Petitioner,

BAMM! WORLDWIDE, INC.,
an Illinois Corporation

By and through its attorney,

MICHELE D. MILLER

Attorney for Petitioner

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Dated: January 29, 2007